

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY LEE BEAVERS,

Plaintiff,

v.

OFFICER HOSEY,

Defendant.

Case No. 1:21-cv-00650-HBK (PC)

ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S MOTION
TO COMPEL

(Doc. No. 55)

Pending before the Court is Plaintiff Gary Lee Beavers' Motion to Compel Discovery filed May 12, 2025. (Doc. No. 55, "motion"). For the reasons set forth herein, the Court grants the motion in part, denies the motion in part, and resets the pre-trial dispositive motion deadline to December 15, 2025.

PROCEDURAL BACKGROUND

On May 23, 2025, prior to Defendant's response due date, the Court entered an order deferring a ruling on the motion and ordering the parties to meet telephonically and confer in good faith to resolve the outstanding discovery dispute.¹ (Doc. No. 56 at 4). If the parties were unable to resolve the discovery dispute, they were directed to file a joint statement, not to exceed

¹ As pointed out by the Court, Plaintiff's did not include a certification that he had met and conferred with defendant prior to filing the motion. (Doc. No. 56 at 3:17-18).

1 six pages, outlining which items remained in dispute. (*Id.* at 4, ¶ 5).² In contravention to the
2 Court’s order to file a joint statement, Plaintiff filed a separate statement on September 11, 2025.
3 (Doc. No. 67). In his statement, Plaintiff avers Defendant has not complied with any of the
4 previous requested discovery. (*Id.* at 1). Instead of identifying the specific document requests
5 that remain in dispute, Plaintiff listed “three areas” of discovery that Defendant “refused to
6 disclose.” (*Id.* at 2).

7 Defendant Hosey filed a statement opposing Plaintiff’s motion on September 15, 2025.
8 (Doc. No. 68). Defendant attached the declaration of counsel attesting to the various meet and
9 confer efforts with Plaintiff regarding the discovery dispute. (Doc. No. 68-1). Counsel for
10 Defendant attests that over 400 pages of documents were produced to Plaintiff in its initial
11 production, and another 100 pages of documents were produced in its supplemental production.
12 (Doc. No. 68-1, ¶¶ 5, 14). In addressing Plaintiff’s motion, Defendant points out that Plaintiff’s
13 “motion improperly expands the scope of several” of Plaintiff’s requests. (Doc. No. 68 at 2).
14 Defendant then turns and addresses each of the 11 areas of discovery requested by Plaintiff in his
15 motion. (*Id.* at 2-12). Thereafter, as directed by the Court, Defendant filed Plaintiff’s original
16 Requests for Production (“RFP”), Defendant’s initial responses to Plaintiff’s RFP, and
17 Defendant’s Supplemental responses to Plaintiff’s RFP. (Doc. No. 72, Exhibit A, Exhibit C, and
18 Exhibit C, respectively). Defendant also submitted for inspection the Declaration of N. Ibarra in
19 Support of Privilege Log in Response to Plaintiff’s First Set of Request for Production (Doc. No.
20 72 at 29-34) and accompanied Privilege Log (Doc. No. 72 at 35), as well as the Declaration of N.
21 Ibarra in Support of Supplemental Privilege Log in Response to Plaintiff’s First Set of Request
22 for Production (Doc. No. 72 at 61-71) and accompanied Supplemental Privilege Log (Doc. No.
23 72 at 69).

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27 ² In the interim, the parties met for a settlement conference on August 4, 2025 that resulted in an impasse.
28 (See Doc. No. 65).

APPLICABLE LAW AND ANALYSIS

A. Legal Standard

Federal Rule of Civil Procedure 26 provides:

parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Fed. R. Civ. P. 26(b)(1). Although broad, "the scope of discovery is not without limits."

Compass Bank v. Morris Cerullo World Evangelism, 104 F. Supp. 3d 1040, 1051 (S.D. Cal. 2015). The Court "must limit" irrelevant, overly broad, unduly burdensome, cumulative or disproportional discovery. Fed. R. Civ. P. 26(b)(2)(C). Whether to permit or deny discovery is left to the Court's "broad" discretion. *See Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002).

Pursuant to Rule 34, a party may request documents "in the responding party's possession, custody, or control." Fed. R. Civ. P. 34(a)(1). The responding party must respond in writing and is obliged to produce all specified relevant and non-privileged documents, tangible things, or electronically stored information in its "possession, custody, or control" on the date specified. *Id.* A requesting party that is dissatisfied with discovery responses made under the federal rules may move to compel further responses pursuant to Rule 37(a). Fed. R. Civ. P. 37(a). An "incomplete disclosure, answer, or response must be treated as a failure to disclose, answer or respond." Fed. R. Civ. P. 37(a)(4). "The moving party bears the burden of demonstrating 'actual and substantial prejudice' from the denial of discovery." *Hasan v. Johnson*, 2012 WL 569370 *2 (E.D. Cal. Feb. 21, 2012) (citing *Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002)).

Certain documents may be withheld based upon privilege. The Ninth Circuit recognizes a qualified privilege for official information. *Kerr v. U.S. Dist. Ct. for the N. Dist. of Cal.*, 511 F.2d 192, 198 (9th Cir.1975), *aff'd*, 426 U.S. 394 (1976). However, the qualified privilege is "contingent upon the competing interests of the requesting litigant and subject to disclosure especially where protective measures are taken" *Id.* Under this privilege, a "court must

1 balance the government's interest in protecting official information from disclosure against the
 2 plaintiff's need for the information.” *Edwards v. Cnty. of Los Angeles*, No. CV 08-07428
 3 GAF(SSx), 2009 WL 4707996, at *3 (C.D. Cal. Dec. 9, 2009). In civil rights cases such as this,
 4 the balancing test is “moderately pre-weighted in favor of disclosure.” *Kelly v. City of San Jose*,
 5 114 F.R.D. 653, 661 (N.D. Cal. 1987). However, before a court may engage in this balancing, the
 6 party invoking the privilege must make a “substantial threshold showing” that the privilege
 7 applies. *Soto v. City of Concord*, 162 F.R.D. 603, 613 (N.D. Cal. 1995) (quoting *Kelly*, 114
 8 F.R.D. at 669). The party asserting the privilege must submit a declaration or affidavit from a
 9 responsible official with personal knowledge of the matters to be attested to in the affidavit. *Id.*
 10 “The claiming official must ‘have seen and considered the contents of the documents and himself
 11 have formed the view that on grounds of public interest they ought not to be produced’ and state
 12 with specificity the rationale of the claimed privilege.” *Kerr*, 511 F.2d at 198. The affidavit must
 13 include:

14
 15 (1) an affirmation that the agency generated or collected the material in issue and
 16 has maintained its confidentiality; (2) a statement that the official has personally
 17 reviewed the material in question; (3) a specific identification of the governmental
 18 or privacy interests that would be threatened by disclosure of the material to
 19 plaintiff and/or his lawyer; (4) a description of how disclosure subject to a
 carefully crafted protective order would create a substantial risk of harm to
 significant governmental or privacy interests, and (5) a projection of how much
 harm would be done to the threatened interests if disclosure were made.

20 *Soto*, 162 F.R.D. at 613 (quoting *Kelly*, 114 F.R.D. at 670).

21 The party resisting discovery must specifically describe how disclosure of the requested
 22 information in that case would be harmful. *Soto*, 162 F.R.D. at 613-14. If the opposing party
 23 fails to meet the threshold burden requirement of establishing cause to apply the privilege, the
 24 privilege will be overruled. *Chism v. County of San Bernardino*, 159 F.R.D. 531, 533 (C.D. Cal.
 25 1994). Ordinarily, a “party asserting an evidentiary privilege has the burden to demonstrate that
 26 the privilege applies to the information in question.” *Tornay v. United States*, 840 F.2d 1424,
 27 1426 (9th Cir. 1988) (citing *United States v. Hirsch*, 803 F.2d 493, 496 (9th Cir. 1986)); *In re*
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1 *Roman Catholic Archbishop of Portland in Oregon*, 661 F.3d 417, 424 (9th Cir. 2011)
2 (explaining that "the party opposing disclosure has the burden of establishing that there is good
3 cause to continue the protection of the discovery material").

4 ANALYSIS

5 Critical to whether the requested discovery falls within the ambit of Rule 26 is nature of
6 the claims at issue in this case. Here, this action proceeds on Plaintiff's single Eighth
7 Amendment failure to protect claim against the remaining one Defendant—Defendant Hosey.
8 Specifically, Plaintiff alleges Defendant Hosey allowed inmate Price, who was a porter, to enter
9 Plaintiff's cell and assault him despite knowing of inmate Price's violent history and violent
10 intentions towards Plaintiff.

11 Plaintiff's motion identifies 11 document requests and why the requested documents are
12 relevant to Plaintiff's claim. (*See generally*, Doc. No. 55). However, the motion does not address
13 why Defendant's responses are deficient and/or why Defendant's objections are not justified. A
14 motion, in addition to identifying why the requested discovery is relevant, must identify why the
15 response or the basis of the objections lodged by another party are not valid. *See Christ v.*
16 *Blackwell*, 2011 WL 3847165, at *2 (E.D. Cal. Aug. 30, 2011); *Ellis v. Cambra*, 2008 WL
17 860523 (E.D. Cal. Mar. 27, 2008). Accordingly, the motion is arguably facially deficient and the
18 Court may deny it on that basis alone.

19 Nonetheless, given Plaintiff's pro se status, the Court will turn to the merits of the motion.
20 In doing so, the Court has reviewed Plaintiff's motion (Doc. No. 55), his statement in support of
21 his discovery requests (Doc. No. 67), Defendant's statement re: discovery disagreement (Doc.
22 No. 68), Plaintiff's initial Request for Production ("RFP") (Doc. No. 72, Exh. A), Defendant's
23 responses thereto (Doc. No. 72, Exh. B), as well as Defendant's supplemental responses (Doc.
24 No. 72, Exh. C), with accompanying Declarations and Privilege Logs. To the extent the
25 discovery sought in Plaintiff's motion differs from the discovery sought in his document requests,
26 the discovery sought in Plaintiff's RFP control.

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1 Plaintiff's motion identifies the following 11 document requests. (*see* Doc. 55)

2 Plaintiff's Document Request 1:

3 "Please provide the full names, cell number and CDCR number for
4 all inmates housed in my building, building #3, on the day of the day
5 of inmate Price's assault on me, 4/7/2019. Please note the names of
6 all porters. (Doc. No. 55 at 2).

7 Plaintiff claims that "[t]he information I have requested is available
8 in the database CDCR keeps on all prisons." (Doc. No. 67 at 2).

9 Defendant's Response:

10 Contrary to Plaintiff's Motion, Plaintiff's first RPD sought
11 information pertaining to the inmates housed in his building at the
12 time of the incident, not the names of porters. Defendant timely
13 responded to the request by advising Plaintiff that no responsive
14 documents were located. During several meet and confer
15 conversations, defense counsel repeated this response and advised
16 Plaintiff that Wasco State Prison databases did not retain information
17 regarding what inmates were housed in a certain building during a
18 certain time frame. Defendant is not required to prepare a document
19 that does not already exist. *Roettgen v. Foston*, No. 13CV1101-GPC-
20 BGS, 2016 WL 11911155, at *2 (S.D. Cal. May 4, 2016). As part of
21 meet and confer efforts, Defendant mailed Plaintiff the names of his
22 two prior cellmates even though not specifically requested in any
23 discovery request. (Doc. No. 68 at 2).

24 Initially, the Court notes that Plaintiff's original RFP did not ask for the names of the
25 porters. Thus, to the extent that the porters are not housed in building #3, this additional request
26 is beyond the information Plaintiff's originally requested.

27 In response to the request, Defendant stated that no such document exists. A court cannot
28 order a party to produce documents that do not exist. A party's mere suspicion that additional
documents must exist is an insufficient basis to file a motion to compel. *See Bethea v. Comcast*,
218 F.R.D. 328, 330 (D. D.C. 2003). Rather, the moving party must have a colorable basis for its
belief that relevant, responsive documents exist and are being improperly withheld. *See Carter v.*
Dawson, 2010 WL 4483814, at *5 (E.D. Cal. Nov. 1, 2010) (representation by defendants that
they are unable to locate responsive documents precludes the grant of a motion to compel "unless
Plaintiff can identify a specific document that Defendants have withheld"); *Ayala v. Tapia*, 1991
WL 241873, at *2 (D. D.C. Nov. 1, 1991) (denying motion to compel where moving party could
not identify withheld documents). Plaintiff's belief that CDCR has this information stored in a

1 database is not enough to overcome Defendant's statement that no responsive document was
2 found.

3 Plaintiff contends "[t]his information is in a database" and suggests that such a document
4 can be obtained by a "tech employee." (Doc. No. 55 at 2). Rule 34 permits a party to request
5 documents in the responding party's possession, custody, or control. Fed. R. Civ. P. 34(a)(1).
6 The Rule has been interpreted to mean that a party must produce only documents that are already
7 in existence. *Alexander v. F.B.I.*, 194 F.R.D. 305, 310 (D.D.C. 2000). A party is not required to
8 create new documents solely for their own production. *Id.*; see also *Goolsby v. Carrasco*, 2011
9 WL 2636099 *20-21 (E.D. Cal. July 5, 2011) (finding a document request asking for the names
10 of employees who supervised the prison cage yard is not a proper request under Rule 34);
11 *Robinson v. Adams*, 2011 WL 2118753 *53 (E.D. Cal. May 27, 2011) (denying plaintiff's motion
12 to compel responses to a document request seeking the names of prison employees working in
13 building two during a certain time period because the request did not seek an identifiable
14 document). Accordingly, Defendants are not required to create a list of all inmates by name, cell
15 number, CDCR number and their current location within CDCR and the Court will deny
16 Plaintiff's motion regarding Document Request No. 1.

17 Plaintiff's Document Request No. 2:

18 Please provide the information in Officer Hosey's personnel file, to
19 include all complaints, 602's, reports and recommendations,
20 interviews, and all disciplinary actions or warnings as these items
21 pertain to:

22 1) allegations of use of illegal, unnecessary or excessive force against
23 a prisoner; 2) perjury; 3) falsifying evidence; 4) false statements; 5)
24 criminal convictions; 6) admonishments; 7) suspensions; 8) drug use;
25 9) falsifying documents; 10) tampering with evidence; 11)
26 destroying evidence; 12) failure to protect; 13) aiding or abetting any
27 of the above activities. (Doc. No. 55 at 3).

28 Defendant's Response:

Contrary to Plaintiff's Motion, Plaintiff's second RPD sought the
personnel file of Defendant Hosey and the two dismissed
Defendants. Defendant responded to this request with appropriate
objections including the official information privilege and provided
a declaration noting safety and security concerns for the production
of certain records. Defendant narrowed the scope of the overbroad
request to seek documents pertaining to any investigation or

1 discipline Defendant received related to failure to protect for the five
2 years prior to the incident and identified those records on a privilege
3 log. (See Ex. B.) Defendant also noted that, besides the documents
4 identified in the privilege log, no other responsive documents were
5 located. The Motion seeks new documents regarding allegations of
6 excessive force, perjury, criminal convictions, admonishments, and
7 drug abuse which exceed the scope of permissible discovery because
8 any such documents are not relevant to any claim or defense in this
9 case. Fed. R. Civ. P. 26(b)(1); Fed. R. Evid. 404(b). Further, this
10 request seeks information that is privileged and confidential. (Doc.
11 No. 68 at 2-3).

12 The Court grants in part and denies in part Plaintiff's motion regarding Document Request
13 No. 2. The Court denies the motion to the extent Plaintiff seeks additional documents for the first
14 time in his motion regarding allegations of excessive force, perjury, criminal convictions,
15 admonishments, and drug abuse by Defendant Hosey that were not included in Plaintiff's initial
16 RFP No. 2. Further, the Court finds that Plaintiff's document requests for "all" complaints and
17 grievances made against Hosey" is overboard and overly burdensome. *See Brook v. Carey*, 352
18 Fed. App'x 184, 185-86 (9th Cir. 2009) (affirming the district court's denial of the plaintiff's
19 "motion to compel discovery of 'any and all grievances, complaints, or other documents
20 . . . concerning mistreatment of inmates'" (modifications adopted); *see also Nugget*
21 *Hydroelectric, L.P. v. Pacific Gas and Elec. Co.*, 981 F.2d 429, 438-39 (9th Cir. 1992) (finding
22 the court is not required to compel discovery that is "unnecessarily burdensome and overly
23 broad," with minimal chance of relevance).

24 Defendant does not contest the relevance and proportionality of the narrowed request for
25 documents pertaining to any investigation or discipline Defendant received related to failure to
26 protect for the five years prior to the incident. Indeed, courts have recognized in § 1983 actions
27 that evidence of other misconduct against a defendant may be used for purposes other than
28 character evidence, such as showing a pattern or practice of behavior. *Taylor v. O'Hanneson*, No.
11-CV-00538-LJO, 2014 WL 2696585, at *5 (E.D. Cal. June 13, 2014); *Ramirez v. County of Los*
Angeles, 231 F.R.D. 407, 412 (C.D. Cal. 2005).

Instead, Defendant objects to the producing the responsive documents (identified by bates
numbers AGOPRIV0001-AGOPRIV0031) based on confidentiality, official information
privilege, and the deliberative process privilege, citing California Code of Regulations, title 15,

1 sections 3321 and various state evidentiary code sections. (Doc. No. 72 at 13, Exh. B; Doc. No.
2 72 at 35).³ While claiming “privilege,” the Declaration in support of the privileges being asserted
3 makes clear that the thrust of Defendant’s argument against production is confidentiality. (*See*
4 *generally*, Doc. No. 72 at 30-34).

5 At the outset, confidentiality is not a basis for withholding discovery. Rule 26(1) exempts
6 only privileged documents, not confidential documents from discovery. Regarding the state
7 evidentiary objections, discovery in federal court is governed by federal law, not a state’s
8 regulatory scheme. *See Kerr v. U.S. Dist. Ct. for N.D. Cal.*, 511 F.2d 192, 197-98 (9th Cir. 1975).
9 Defendant does not provide any detail about the withheld documents. Defendant provides no
10 facts as to how the responsive documents could affect the “safety and security of the institution,
11 staff and inmates.” (Doc. No. 72 at 33). And general assertions that governmental interests
12 would be harmed by disclosure are insufficient to satisfy the *Kelly* burden. *Soto*, 162 F.R.D. at
13 614. Further, the Declaration contains only conclusory, vague and speculative concerns (the
14 confidential documents “*could* be subject to search and seizure,” “*could* endanger the safety of
15 others as well as the safety of Plaintiff himself,” “release of this information *could* also jeopardize
16 the security of any institution where inmates are being held.”). (Doc. No. 72 at 32-34). Such
17 claims of vague and speculative risks do not satisfy the *Kelly* prongs. Thus, Defendant has not
18 met his burden of showing the potential for harm outweighs the strong public policy in favor of
19 uncovering civil rights violations. Plaintiff is unable to acquire such information by any other
20 means, and this information has a high degree of potential significance to Plaintiff’s case. As a
21 result, the Court finds that Plaintiff’s narrowed request for any complaint, grievances, 602’s,
22 reports and recommendations, investigation or disciplinary actions Defendant Hosey has received
23 related to any failure to protect claims for the five years prior to the incident is relevant,
24 proportional to the needs of the case, and not unreasonably vague, ambiguous, broad, or
25 burdensome. Moreover, the Court finds that proper redactions and/or a protective order would be
26 sufficient to protect any confidential information produced in discovery. *Soto*, 162 F.R.D. at 616
27

28 ³ The same bates numbers are identified on the Supplemental Privilege Log.

1 ("carefully drafted" protective orders can "minimize the impact of . . . disclosure"); *Medina v.*
 2 *Cnty. of San Diego*, No. 08cv1252 BAS (RBB), 2014 WL 4793026, at *7 (S.D. Cal. Sept. 25,
 3 2014) ("A protective order and the redaction of any highly personal information for which
 4 Plaintiff has not shown a need will amply protect privacy interests.").⁴

5 Accordingly, Defendant's objections based on official-information privilege and
 6 confidentiality are overruled and Defendant is ordered to produce the documents they have
 7 identified in their Privilege Log as responsive to Plaintiff's Document Request No. 2. As noted,
 8 Defendant may redact from the responsive documents: (a) any personal information that is
 9 necessary to protect the privacy of inmates, officers, and other third-parties; (b) inmate
 10 information that might compromise jail security, such as, but without limitation, gang affiliation,
 11 conviction offenses, or medical issues; (c) inmate information that is unrelated to this case; and
 12 (d) any discussion that implicates security techniques and procedures.

13 Plaintiff's Document Request No. 3:

14 Provide the names and badge number for all officers and staff
 15 involved in the medical treatment following the assault on me by
 16 Price, including the sergeant(s) in the exam room, the nurse tending
 17 to the damage to my left eye (include her employer if other than
 CDCR), the supervising sergeant and supervising lieutenant. (Doc.
 No. 55 at 3).

18 Defendant's Response:

19 Plaintiff's third RPD sought the names of the sergeant and nurse who
 20 he met in the medical area after the assault, the personnel file for the
 21 sergeant, and the nurse's employer and mailing address. In response
 22 to this request, Defendant asserted applicable objections and
 23 produced all documents that included the names of responding staff
 who met with Plaintiff on April 7, 2019, after Price's assault.
 Defendant could not locate any records indicating a sergeant who
 met with Plaintiff in the medical area. Plaintiff's Motion improperly
 expands the request to seek the names of all officers that worked on
 April 7, 2019. (Doc. No. 68 at 4).

25 ⁴ No protective order has been requested nor entered in this case. Thus, at this procedural stage, redactions
 26 are the only appropriate safeguard. In the future, to avoid any security concerns relating to dissemination
 27 of confidential and sensitive documents, counsel for CDCR might consider trying to reach an agreement
 28 with an inmate whereby these type of documents are provided to the litigation coordinator and provided to
 the inmate for review and detailed notetaking, but retained by litigation coordinator and made available to
 the inmate as needed during the course of the litigation until concluded.

Again, to the extent Plaintiff requests additional documents in his motion that were not included in Plaintiff's initial RFP No. 3, his motion is denied. Further, as explained above, Plaintiff is required to accept Defendant's response that he has provided all responsive documents. (*Id.*). Thus, the Court denies Plaintiff motion regarding Document Request No. 3.

Plaintiff's Document Request No. 4:

Please provide all Incident Reports, Supervisorial Reports, and any other and investigations regarding the assault on me by Price on 4/7/2019. Include all interviews, especially with Price, regarding this matter, all criminal charges, 115 RVR's, and all punishments incurred by Price. (Doc. No. 55 at 4).

Defendant's Response:

Plaintiff's fourth RPD sought investigative reports regarding his assault. Defendant produced a grievance response and supplemented this response with a privilege log and supporting declaration identifying a rules violation report incarcerated person Price received. Defendant objected on the grounds that confidential investigations may not be disclosed to inmates. (See Exhibit B.) Plaintiff has not explained how these objections are improper. (Doc. No 68 at 3).

A review of Defendant response (Exhibit B) reveals that Defendant produced Plaintiff's Second Level Decision (AGO 0374-0375), which includes the names of persons interviewed in connection with the April 7, 2019 incident, and Notice of Unusual Occurrence (AGO 0376). (Doc. No. 72 at 16). Defendant, however, withheld documents deemed responsive (bates numbers AGOPRIV0032-0040) citing to the official information privilege, *inter alia*. For the same reasons, *supra* at Document Request No 2, the Court finds Defendant's objections to producing other responsive documents unavailing. The Court notes that Cal. Code of Regs., tit. 15§ 3370(b) permits an inmate to have access to a case records file with a court order. *See* Cal. Code Regs., tit. 15, § 3370 ("[e]xcept by means of a valid authorization, subpoena, or court order, no inmate or parolee shall have access to another's case records file, unit health records, or component thereof"). Defendant's reliance on state regulations to prohibit Plaintiff from possessing any of the responsive documents is overruled. Moreover, the Court finds that proper redactions and/or a protective order would be sufficient to protect any confidential information produced in discovery. *Soto*, 162 F.R.D. at 616 ("carefully drafted" protective orders can

1 “minimize the impact of . . . disclosure”); *Medina v. Cnty. of San Diego*, 2014 WL 4793026, at *7
 2 (S.D. Cal. Sept. 25, 2014) (“A protective order and the redaction of any highly personal
 3 information for which Plaintiff has not shown a need will amply protect privacy interests.”).

4 The privileges and privacy rights asserted by Defendant are outweighed by the legitimate
 5 discovery interests of Plaintiff, the policy of our national civil rights laws, and the need for an
 6 efficient, fair, and transparent judicial process. *Parrish v. Solis*, 2014 WL 2466101 at *4 (N.D.
 7 Cal. May 31, 2014). Accordingly, Defendant's objections based on confidential investigation
 8 information are overruled and Defendant is ordered to produce the documents responsive to
 9 Plaintiff's Document Request No. 4 as identified in the Supplemental Privilege Log (Doc. No. 72
 10 at 69). As noted, Defendant may redact from the responsive documents: (a) any personal
 11 information that is necessary to protect the privacy of inmates, officers, and other third-parties;
 12 (b) inmate information that might compromise jail security, such as, but without limitation, gang
 13 affiliation, conviction offenses, or medical issues; (c) inmate information that is unrelated to this
 14 case; and (d) any discussion that implicates security techniques and procedures.

15 Plaintiff's Document Request No. 5:

16 Please provide the name of all porters for building #3 in the period
 17 of February 1, 2019 through May 1, 2019. Include all reports and
 18 recommendations for adding or removing any porter during this
 19 period of time. Provide the name of the porter who replaced Proce
 after he engaged in a fight. Who was responsible for Price being
 reinstated? Was the porter who had replaced Price later charged with
 a crime or RVR soon after Price was reinstated? (Doc. No. 55 at 4)

20 Defendant's Response:

21 Plaintiff's fifth RPD sought the identities of any incarcerated person
 22 who became a porter after inmate Price was removed as a porter
 before the incident with Plaintiff. Defendant provided appropriate
 23 objections and advised Plaintiff that no responsive records were
 located. Plaintiff's Motion expands this request to seek documents
 24 that include “who was responsible for Price being reinstated? Was
 the porter who had replaced Price later charged with a crime or
 RVR.” Defendant will not respond to belated discovery requests.
 25 These are not proper document requests. Wasco State Prison did not
 retain these types of documents on volunteer porters. (Doc. No. 68
 26 at 3-4).

27 As explained above, Plaintiff is required to accept Defendant's statement that no
 28

1 responsive documents were located.⁵ (*Id.*). Further, Plaintiff cannot expand the scope of his
2 original RFP No. 5 in his motion. Therefore, Plaintiff's motion regarding Document Request No.
3 5 is denied.

4 Plaintiff's Document Request No. 6:⁶

5 Please provide a listing of all fighting or assaults in buildings #C-2
6 and #C-3 between October, 2018 through July 1, 2019. Provide a
7 brief description of the incident and the date of the incident, building
8 number, and use of rubber bullets or gas canisters and note any
injuries. Include a note of any charges that resulted from any of the
9 fights. (Doc. No. 55 at 4).

10 Defendant's Response:

11 Plaintiff's sixth RPD sought a list that required Defendant to prepare
12 new documents, including a list of fighting and assault incidents,
13 which is improper under Federal Rule of Civil Procedure 34. See
14 *Roettgen v. Foston*, No. 13CV1101-GPC-BGS, 2016 WL 11911155,
at *2 (S.D. Cal. May 4, 2016). Defendant made several objections,
including confidentiality and the official information privilege.
Without waiving his objections, Defendant informed Plaintiff that no
document exists that includes that information. Plaintiff's motion
does not challenge the adequacy of this response. No responsive
documents exist. (Doc. No. 68 at 4)

15 Again, as explained above, Plaintiff is required to accept Defendant's statement that no
16 responsive documents were located. (*Id.*). Further, Defendant is not required to compile
17 documents that do not exist. Therefore, Plaintiff's motion regarding Document Request No. 6 is
18 denied.

19 Plaintiff's Document Request 7⁷

20 Please provide all training materials, CDCR Regulations, directives,
21 and instructions to staff relating to the operation of electronic doors
of the inmate's cells. (Doc. No. 55 at 5).

22 Defendant's Response:

23 Defendant made several objections. Defendant also produced
24 several responsive documents to this request, including responsive
25 regulations, Plaintiff's facility's post orders, and the inmate
orientation manual. Plaintiff fails to identify how this response is
deficient." (Doc. No. 68 at 4).

26 ⁵ The information Plaintiff sought through his RFP is more akin to having been sought through
27 interrogatories.

28 ⁶ Identified in Plaintiff's RFP as RFP No. 7. (Exh. A, Doc. No. 72 at 5-6).

⁷ Identified in Plaintiff's RFP as RFP No. 8. (Exh. A at, Doc. No. 72 at 6).

Plaintiff fails to explain how Defendant's supplemental response, which included the 2019 version of the California Code of Regulations, Title 15, section 3283 and 3274, and the 2019 Facility B Post Orders was not responsive or otherwise insufficient. *See Womack v. Virga*, 2011 WL 6703958, at *11 (E.D. Cal. Dec. 21, 2011) (explaining that the party seeking to compel discovery “has the burden of informing the court why . . . the defendants' responses are deficient”); *Walker v. Karelas*, 2009 WL 3075575, at *1 (E.D. Cal. Sep. 21, 2009) (“at a minimum, the moving party plaintiff has the burden of informing the court . . . why he believes the defendant's responses are deficient”). Therefore, Plaintiff’s motion regarding Document Request No. 7 is denied.

Plaintiff’s Document Request No. 8⁸

Please provide all training materials, CDCR Regulations, directives, and instructions to staff on procedures to follow when an assault results in the necessity of medical treatment for one of the inmates. Please note all required interviews of the combatants, requirement to video any interviews, requirement for an investigation and the name of all required reports to be filed. Also provide the guideline used to determine whether to refer charges for an assault. (Doc. No. 55 at 5).

Defendant’s Response:

Defendant objected on various grounds including overly broad and vague, but still produced over 200 pages of documents. Defendant has complied with Plaintiff’s request. Plaintiff fails to identify how this response is deficient.” (Doc. No. 68 at 4).

Initially, the Court agrees that the request for “all” training materials, regulations in connection with assaults and the need for medical care is vague and overly broad. Nonetheless, Plaintiff fails to explain how Defendant's supplemental response, which included the 2019 version of the California Code of Regulations, Title 15, Article 2: Security, the Department Operations Manual, Chapter 5, and the 2025 Operational Procedure 036 Emergency Medical Response Program, was not responsive or otherwise insufficient. *See Womack*, 2011 WL 6703958, at *11; *Walke*, 2009 WL 3075575, at *1. Therefore, Plaintiff’s motion regarding Document Request No. 8 is denied.

⁸ Identified in Plaintiff’s RFP as RFP No. 9. (Exh. A, Doc. No. 72 at 6).

Plaintiff's Document Request No. 9:⁹

Please provide all training materials, CDCR regulations, directives, and instructions to staff on procedures to appoint a porter. Please pay particular attention to the procedures to follow when a porter is involved in a fight or otherwise receives disciplinary action. Please include all items that would disqualify an inmate from serving as a porter, such as criminal charges, write-ups, assaults, fighting, theft, etc.

Defendants Response:

Plaintiff's ninth RPD related to procedures to appoint an inmate porter fails to explain what documents Defendant has not already produced. While Defendant made timely objections, Defendant also produced several documents, including regulations on inmate work and education as well as the 2019 inmate orientation manual. This response is not deficient. (Doc. No. 68 at 4).

Plaintiff once again fails to explain how Defendant's supplemental response, which included the 2019 version of the California Code of Regulations, Title 15, Article 3: Work and Education (§ 3040 to § 3041.3) (AGO 270-274), was not responsive or otherwise insufficient. *See Womack*, 2011 WL 6703958, at *11; *Walke*, 2009 WL 3075575, at *1. Therefore, Plaintiff's motion regarding Document Request No. 9 is denied.

Plaintiff's Request No. 10

Please provide the name and badge number for all building C-3 tower officers for the second shift (6am to 2pm) for the month of April, 2019. Also provide the name and badge number of the building C-3 tower officer on duty at 11am on January 11, 2019. (Doc. No. 55 at 6).

Defendant's Response:

Plaintiff indicated to counsel that this request is no longer at issue. (Doc. No. 68 at 4).

Plaintiff does not include this request in his statement of remaining discovery. (*See* Doc No. 67). Consequently, the Court denies as moot Plaintiff's motion regarding Document Request No. 10.

Plaintiff's Document Request No. 11:

⁹ Identified in Plaintiff's RFP as RFP No. 10. (Exh. A, Doc. No. 72 at 6).

1 Please provide all training materials, CDCR regulations, directives,
2 and instructions to staff on procedures to distribute the commissary
3 to the inmates. Who is responsible for passing out the commissary
and is a prison official responsible for reviewing and confirming the
inmate has received his correct commissary? (Doc. No. 55 at 6).

4 Defendant's Response:

5 This request was not in Plaintiff's initial RFP. (Doc. No. 68 at 4).

6 A review of Plaintiff's initial RFP no such document request. Thus, Plaintiff may not
7 compel it production by way of a motion. Furthermore, the Court finds the request not relevant to
8 Plaintiff's Eighth Amendment failure to protect claim against Defendant Hosey. Thus, the Court
9 denies Plaintiff's motion regarding Document Request No. 11.

10 The Court previously stayed the remaining deadlines in the Amended Case Management
11 Order, including the July 30, 2025 dispositive motion deadline. (Doc. No. 63). The Court will
12 reset the dispositive motion deadline to December 15, 2025.

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14 ///

15 Accordingly, it is ORDERED:

16 1. Plaintiff's Motion to Compel Discovery (Doc. No. 55) is GRANTED in part and
17 DENIED in part.

18 a. Plaintiff's Motion is GRANTED to Document Requests Nos. 2 and 4;

19 b. Plaintiff's Motion is DENIED as to Document Requests Nos. 1, 3, 5, 6, 7, 8, 9,
20 and 11; and


21 c. Plaintiff's Motion is DENIED as moot as to Document Request No.10.

22 2. Within fourteen (14) days of this Order, Defendant shall provide to Plaintiff the
23 following documents Defendant deemed responsive but withheld (bates numbers
24 AGOPRIV0001-31 and AGOPRIV0032-0040) with the following redactions: (a) any
25 personal information that is necessary to protect the privacy of inmates, officers, and
26 other third-parties; (b) inmate information that might compromise jail security, such
27 as, but without limitation, gang affiliation, conviction offenses, or medical issues; (c)
28 inmate information that is unrelated to this case; and (d) any discussion that implicates

1 security techniques and procedures.

2 3. The Court resets the pre-trial dispositive motion deadline to December 15, 2025.

3
4 Dated: October 30, 2025


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE